

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Hafner	Team: Squad #04	CCRB Case #: 202303334	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/04/2023 9:19 PM	Location of Incident: 1138 Adee Avenue	18 Mo. SOL 10/4/2024	Precinct: 49		
Date/Time CV Reported Fri, 04/14/2023 12:53 PM	CV Reported At: CCRB	How CV Reported: E-mail	Date/Time Received at CCRB Fri, 04/14/2023 12:53 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Erin Devoy	01113	968376	049 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Angelo Mele	18101	973119	049 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Erin Devoy	Abuse: Police Officer Erin Devoy threatened to remove § 87(2)(b) to the hospital.	
B . PO Erin Devoy	Abuse: Police Officer Erin Devoy interfered with § 87(2)(b)'s use of a recording device.	
C . PO Erin Devoy	Off. Language: Police Officer Erin Devoy spoke offensively regarding § 87(2)(b)'s perceived disability.	
D . PO Erin Devoy	Discourtesy: Police Officer Erin Devoy spoke discourteously to § 87(2)(b)	
E . PO Erin Devoy	Abuse: Police Officer Erin Devoy questioned § 87(2)(b)	
F . PO Erin Devoy	Abuse: Police Officer Erin Devoy detained § 87(2)(b)	
G . PO Erin Devoy	Off. Language: Police Officer Erin Devoy made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	
H . PO Erin Devoy	Discourtesy: Police Officer Erin Devoy spoke discourteously to § 87(2)(b)	

Case Summary

On April 14, 2023, an § 87(2)(b) individual filed this with the CCRB via email on behalf of § 87(2)(b)

On April 4, 2023, at approximately 9:19pm, in the vicinity of 1138 Adea Avenue, in the Bronx, § 87(2)(b) approached a marked SUV and recorded the interior. Police Officer Erin Devoy and Police Officer Angelo Mele, of the 49th Precinct, exited the marked SUV and approached § 87(2)(b). PO Devoy instructed PO Mele to call an ambulance to assess § 87(2)(b) (**Allegation A: Abuse of Authority, § 87(2)(g)**). PO Devoy told § 87(2)(b) that he was not allowed to film the inside of the marked SUV (**Allegation B: Abuse of Authority, § 87(2)(g)**). PO Devoy told § 87(2)(b) “I don’t think you’re right in the head right now, so I need you to get checked” (**Allegation C: Offensive Language, § 87(2)(g)**)(**Allegation D: Discourtesy, § 87(2)(g)**). PO Devoy asked § 87(2)(b) for his name (**Allegation E: Abuse of Authority, § 87(2)(g)**). PO Devoy told § 87(2)(b) that if he tried to leave, he would be detained (**Allegation F: Abuse of Authority, § 87(2)(g)**). PO Devoy referred to § 87(2)(b) as “sweetheart” (**Allegation G: Offensive Language: Gender, § 87(2)(g)**)(**Allegation H: Discourtesy: Word, § 87(2)(g)**). An ambulance arrived and EMTs determined that § 87(2)(b) did not need medical attention.

No arrests or summons were issued because of this incident.

The CCRB obtained BWC footage from PO Devoy (**BR 1**) and PO Mele (**BR 15**). § 87(2)(b)

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Erin Devoy threatened to remove § 87(2)(b) to the hospital.

Allegation (B) Abuse of Authority: Police Officer Erin Devoy interfered with § 87(2)(b) s use of a recording device.

Allegation (E) Abuse of Authority: Police Officer Erin Devoy questioned § 87(2)(b)

Allegation (F) Abuse of Authority: Police Officer Erin Devoy detained § 87(2)(b)

It is undisputed that § 87(2)(b) approached the marked SUV assigned to PO Devoy and PO Mele and recorded the interior of the marked SUV while standing in the street with a bicycle. PO Devoy and PO Mele were inside the marked SUV when this occurred.

§ 87(2)(b) said (**BR 3**) that PO Devoy called an ambulance and threatened to remove him to the hospital.

PO Devoy’s BWC footage (**BR 1**) shows, at runtime 1:00, PO Devoy asks § 87(2)(b) if he is filming her. At 1:08, PO Devoy tells PO Mele to “Call a bus.” § 87(2)(b) asks PO Devoy, “For what? You need an ambulance?” PO Devoy responds, “No, you need an ambulance.” § 87(2)(b) responds, “Because I’m exercising my rights in public?” PO Devoy states, “Mhm. No, because you’re not allowed to sneak up on people like that, and you’re not allowed to film inside of a police car.”

PO Mele’s BWC footage (**BR 15**) shows, at runtime 00:35, § 87(2)(b) standing at the vehicle’s rear passenger window for 4 seconds before the angle changes and § 87(2)(b) cannot be seen anymore. § 87(2)(b) is completely standing and is not seen touching the vehicle. At 2:14, § 87(2)(b)

§ 87(2)(b) tells PO Devoy to call her supervisor. PO Devoy refuses and tells him that § 87(2)(b) is “going to speak to the ambulance,” before being cut off by § 87(2)(b) who attempts to refuse. PO Devoy cuts § 87(2)(b) off and states, of the ambulance operators, that “if they say § 87(2)(b) is free to go, then § 87(2)(b) [is] free to go.” **At 2:29, PO Devoy asks § 87(2)(b) for his name.** § 87(2)(b) responds that he is the one asking the questions. **PO Devoy asks for § 87(2)(b)s name.** § 87(2)(b) tells PO Devoy that he is pleading the 5th Amendment. **PO Devoy states, “If you don’t tell me your name, I’m going to put you in handcuffs, and I’m going to take you back....”** PO Devoy is interrupted, but her hand is pointing in the direction of the front of the marked SUV. At 8:40, an ambulance arrives. At 10:20, the EMTs ask § 87(2)(b) if he is “all right.” § 87(2)(b) confirms that he is “all right.” The EMT asks if § 87(2)(b) wants to hurt anybody else or himself. § 87(2)(b) denies this and states that he does not want to hurt himself or anybody else. The ambulance leaves at 10:43. PO Mele and PO Devoy return to the marked SUV shortly after.

The § 87(2)(b) video (**BR 2**) is consistent with § 87(2)(b)s statement. At runtime 1:31, § 87(2)(b) tells PO Devoy that he is “in [his] sane mind” and “[does not] need no ambulance.” **At 2:27, § 87(2)(b) asks PO Devoy if he is free to go. PO Devoy tells § 87(2)(b) that he is not detained and must wait for the EMTs to arrive.** § 87(2)(b) disagrees with PO Devoy. **PO Devoy tells § 87(2)(b) that he must wait for the EMTs and if § 87(2)(b) tries to leave then he would be detained.”**

PO Devoy stated (**BR 4**) that she believed § 87(2)(b) was a threat to himself because of the way he had been bicycling before their interaction and the way he leaned against the marked SUV. Ten to twenty minutes prior to their interaction, PO Devoy observed § 87(2)(b) “weaving in and out of traffic,” and riding his bike clockwise around the marked SUV. PO Devoy added that sometimes kids do similar actions to “look cool,” and that she did not “pay it any mind.” PO Devoy exited the marked SUV and saw § 87(2)(b) leaning one of his shoulders against the marked SUV. § 87(2)(b)s bicycle was parallel to the marked SUV and his body was turned to face the window. § 87(2)(b)s actions were not normal, but PO Devoy did not elaborate further. PO Devoy told § 87(2)(b) not to film the inside of the police car. PO Devoy did not know if filming the inside of a police vehicle was specifically prohibited and believed it to be a “grey area” due to the rules prohibiting filming while inside stationhouses. PO Devoy told § 87(2)(b) that she would put him in handcuffs if he did not provide his name. PO Devoy would have handcuffed him and taken him to the stationhouse to have an ambulance meet them there. PO Devoy believed that confirming identity is not necessary for removing an individual to the hospital. PO Devoy felt that the situation was hostile and was trying to get a “bit of rapport going,” with § 87(2)(b). PO Devoy was trying to “smooth things over,” and getting an ID also always helps for paperwork. There was nothing during the interaction that § 87(2)(b) could have been arrested for, except for jaywalking or possibly disorderly conduct. At no point did PO Devoy want to arrest § 87(2)(b). PO Devoy told § 87(2)(b) that he would “be detained if he tried to leave,” because PO Devoy did not think that § 87(2)(b) was “right in that moment,” and PO Devoy wanted EMS to check him out. During the entire interaction PO Devoy was thinking “there was something wrong with him,” and PO Devoy would not let someone she thought of that way leave. PO Devoy kept § 87(2)(b) there for his safety.

NYPD Patrol Guide Procedure 221-13 (**BR 5**) defines an emotionally disturbed person (EDP) as “[a] person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others.”

NYPD Administrative Guide Procedure 304-21 (BR 7) states that individuals have a right to lawfully observe and/or record police activity including, but not limited to detentions, searches, arrests or uses of force. This right to observe and/or record police action can be limited for reasons such as the safety of officers or other members of the public, or when a violation of law is committed by the individual(s) who are observing/recording.

Patrol Guide Procedure 212-11 (BR 6) states that a uniformed member-of-service can request information from a civilian when the uniformed member-of-service has an objective credible reason to approach the civilian. A police officer may seek information related to the reason the person was approached, such as the person's name, if those questions are related to the objective credible reason for the approach.

According to New York City Municipal Code, Charter and Rules §4-04 Pedestrians (BR 8), (a) Pedestrians subject to traffic rules, except as otherwise provided herein. Pedestrians shall be subject to traffic control signals and pedestrian control signals as provided in §§4-03(a) and 4-03(c) of these rules and to the lawful orders and directions of any law enforcement officer, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this section.

According to New York State Penal Law § 240.20 (BR 9), a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof: 1. He engages in fighting or in violent, tumultuous or threatening behavior; or 2. He makes unreasonable noise; or 3. In a public place, he uses abusive or obscene language, or makes an obscene gesture; or 4. Without lawful authority, he disturbs any lawful assembly or meeting of persons; or 5. He obstructs vehicular or pedestrian traffic; or 6. He congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or 7. He creates a hazardous or physically offensive condition by any act which serves no legitimate purpose.

PO Devoy had an ambulance called for § 87(2)(b) because she believed § 87(2)(b) posed a threat to himself. PO Devoy believed this because of the way § 87(2)(b) was riding his bicycle (though she compared this to an action done by kids to look cool and she initially did not pay the action any mind) and the way he leaned against the marked SUV. PO Devoy described § 87(2)(b)'s actions as "not normal," but did not elaborate further. In the captured footage, § 87(2)(b) was clearly standing, able to move himself and his bicycle, and did not appear to have any difficulty articulating his state or holding an intellectual conversation. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

It is undisputed that PO Devoy told § 87(2)(b) that he was not allowed to film the inside of her police vehicle. NYPD Administrative Guide Procedure 304-21 permits members of the public to record police activity except when reasonable safety concerns are identified, or the person is in violation of the law. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

It is undisputed that PO Devoy told § 87(2)(b) that if he did not provide his name that she would handcuff him. It is also undisputed the PO Devoy told § 87(2)(b) that she would detain him if he tried to leave. PO Devoy stated this because she did not think that § 87(2)(b) was “right in that moment.” PO Devoy thought there was something wrong with § 87(2)(b) and would not let someone she thought of that way leave. § 87(2)(g)

Allegation (C) Offensive Language: Police Officer Erin Devoy spoke offensively regarding § 87(2)(b)'s perceived disability.

Allegation (D) Discourtesy: Police Officer Erin Devoy spoke discourteously to § 87(2)(b)

Allegation (G) Offensive Language: Police Officer Erin Devoy made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

Allegation (H) Discourtesy: Police Officer Erin Devoy spoke discourteously to § 87(2)(b)

§ 87(2)(b) did not make these allegations, but they were captured in footage gathered over the course of the investigation.

PO Devoy's BWC footage (**BR 1**), at 01:28, captures PO Devoy saying to § 87(2)(b) “No, but I don't think you're right in the head right now, so I need you to get checked out.”

PO Mele's BWC footage (**BR 15**), at 5:34, § 87(2)(b) states, “Everything's on camera.” PO Devoy points towards PO Devoy's BWC and responds, “Me too, sweetheart.”

PO Devoy told (**BR 04**) § 87(2)(b) that he was not right in the head because § 87(2)(b) was questioning her about why she was detaining him. PO Devoy did not believe that § 87(2)(b) was right in the head and thought that there was something going on and wanted to have EMS check § 87(2)(b). The comment was not in response to any perceived disability. PO Devoy wanted to make sure § 87(2)(b) was not an emotionally disturbed person. PO Devoy confirmed that she called § 87(2)(b) “sweetheart.” PO Devoy did not call § 87(2)(b) a “sweetheart” in reference to his perceived gender nor to condescend or demean § 87(2)(b) but rather to build rapport and communicate with § 87(2)(b). PO Devoy calls people “honey” and “sweetheart” a lot on camera. PO Devoy uses these types of nicknames towards “any gender, male, female, non-binary, kids, dogs.” PO Devoy considered “sweetheart” to be a “nice way” of addressing § 87(2)(b).

According to Administrative Guide 304-06 (BR 10), officers are prohibited from using discourteous remarks regarding another person's age, ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability.

According to Patrol Guide Procedure 200-02 (BR 11), officers are to respect the dignity of each individual and render their services with courtesy and civility.

It is undisputed that PO Devoy told § 87(2)(b) that he was “not right in the head.” PO Devoy stated that this was not made in response to any perceived disability and that she thought something

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

- [illegible]

§ 87(2)(b)

- PO Devoy (**BR 13**) has been a member of service for four years and has been a subject in two previous CCRB complaints and two allegations, none of which were substantiated. § 87(2)(g)


Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of July 6, 2023, the New York City Office of the Comptroller did not have any record of any Notice of Claim filed by § 87(2)(b) regarding this incident (**BR 14**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

RPBP History

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

Squad No.: 4

Investigator:		Inv. Daniel Hafner	11/17/2023
	Signature	Print Title & Name	Date
Squad Leader:	Raquel Velasquez	IM Raquel Velasquez	11/17/2023
	Signature	Print Title & Name	Date
Reviewer:			
	Signature	Print Title & Name	Date